

APPROVED: Meeting No. 36-83

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 35-83

October 24, 1983

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, October 24, 1983, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick, City Clerk Helen Heneghan, City Attorney Paul Glasgow.

Re: City Manager's Report

1. On Saturday, October 22, the 15th Annual Antique and Classic Car Show was held. About 370 units participated including show cars, flea markets, car sales, and special interest vehicles. A crowd of about four thousand people attended. The Mayor and Council trophy for the best looking vehicle on the field was awarded to a 1932 red Pontiac Sports Coup owned by Eck and Ruth Blankenship of Alexandria, Virginia.

2. The added lane on Route 28 between I-270 and Research Boulevard is complete. It will improve the service level at Hurley considerably.

3. For the two-week period ending October 19, the City's after hour recording machine handled 898 calls. The number of calls to stay on the line to talk to the dispatcher averaged about 2 per shift.

4. Mr. Blick showed the Mayor and Council the City's postcard of the mural which will be on sale in the City Hall lobby and other places in the City for 3 for \$1.00.

5. The City's smoothseal program was completed this week. 14.3 Miles of streets were smoothsealed.

6. Some of the overhead wires and utility poles on North Washington Street have already been removed.

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Appointments

Mayor Freeland made the following appointments. They were confirmed by the Council:

Recreation and Park Advisory Board: Harry Dodge - reappointed for a 3rd two-year term

Alternative Community Service Commission: Stephen Jalon - 2 year membership term

Sister Cities Task Force: Janet Smith - to fill unexpired term of E. Preisendorfer
525 Calvin Lane

Economic Development Council: Irwin Schwartz - reappointed to a two-year term

Humanities - Cathy Landenburger - reappointed as Chairman

Recreation and Park Advisory Board: Charles Leasure - reappointed as Chairman

Culture Arts Commission: Ann Reiss - reappointed as Chairman

Re: Resolution: To
Dissolve Civic
Improvement Advisory
Commission

Resolution No. 27-83

On motion of Councilwoman Hovsepien, duly seconded and unanimously passed, Resolution No. 27-83, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, dissolving the Civic Improvement Advisory Commission, was adopted by the Mayor and Council.

Mayor Freeland presented certificates to CIAC members - Delegate Jennie Forehand and Mr. Bernie Gaunt. He noted the large number of citizen activists who had served on the CIAC and had gone on to other boards and commissions, such as the Board of Appeals, the Planning Commission, the Energy Commission, the Human Rights Commission, the Housing Authority. Mayor Freeland noted the Commission members, Nancy Hewitt, Ellen Dudley, James Collins, Edward Funk and Henry Preisendorfer, who could not be present this evening, but their certificates would be mailed to them. The Mayor and Council thanked them all for their service.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Genie McKay, 315 Woodburn Road. Mrs. McKay told the Mayor and Council she lives next to Lone Oak Elementary School, the new home of the Boys' and Girls' Club. On behalf of her neighborhood group she thanked the Mayor and Council for the good job that the staff did in cutting the lawn this summer, however the authority for jurisdiction over the playing field seems to be unknown and there is still some help needed with maintenance. The Council discussed this, Councilman Duncan noting the funds that were placed in the budget and the open space funds the

City had hoped to acquire. The City Manager will look into it and get back to the neighborhood with a report.

2. Harlow Chuck Osborne, 500 Nelson Street. Mr. Osborne told the Council that he is presently the president of the Woodley Gardens Homeowners Association and a member of the City's Economic Development Council, and the Chamber of Commerce's Economic Development Committee. He is interested in the education of young people and the best schools. He would like to have the City provide the leadership to involve the business community and high-tech industry to provide resources for professionals to assist in making Richard Montgomery a magnet school. He said the business community could provide jobs and intern programs and become the employers of students and graduates. The City would come of age as a self-sustaining community. Mayor Freeland agreed with Mr. Osborne, thanked him for his comments and suggested he work through the City's Advisory Commission on Public Education. He noted his pleasure that the Chamber of Commerce has adopted Richard Montgomery. Councilman Abrams agreed and said it is important to begin to tie everything together. He said \$25,000 was placed in the budget for an Economic Development Corporation and there is \$100,000 being placed in a housing fund from Summitt Apartments. There should be a way to pool funds and finance the resources the City might have to go to the Board of Education and use Richard Montgomery as a glue to hold all things together. This would create a spirit of incentive and achievement.

3. Joseph Hunter, Cabin John Parkway. Mr. Hunter told the Council that there was an abandoned puppy in his neighborhood over the weekend and although he called the City's number he was told there was no help available on weekends. It was necessary for him to call the County. He was not satisfied with that and he took the puppy into the shelter himself. He noted that there are two extremely dangerous intersections in the City - Veirs Mill at Edmonston Drive is one and the other is Monroe at Fleet Street. Lives are in danger there at all times. Mayor Freeland said the City has lights ordered for Monroe at Fleet Street and the lights are on order and although Veirs Mill is a State road and it is not an easy one to resolve, the State has assured the City that it will be corrected.

Councilman Abrams said that he, too had a weekend incident of no records being available to the public when a dog bite occurred and it was necessary to find out if the animal had its rabies shots. He said it would seem the computer could be geared to provide that information. Mr. Blick said he would look into both complaints.

4. David Freistadt. Mr. Freistadt said he is here this evening because of Agenda Item No. 11, Text Amendment T-57-83. Copies have been sent to civic associations and they have reacted favorably to the concept.

5. Stephen Van Grack, attorney representing Kora and Williams who purchased the Tennis Barn from the City. There is a request from them to the Council in tonight's correspondence. He briefed the Council on the background explaining a letter sent to a staff member in August requesting an extension of time before the Tennis Barn had to be removed. He said it was October when a response was received saying the Tennis Barn had to be moved as agreed on November 1. There is no way that it can be done. He asked for an extension of 75 days. The Mayor and Council said this would be discussed in executive session.

6. Keith Rosenberg, Rockshire Association. Mr. Rosenberg said on October 3 a request and a letter were written concerning the development of property in his neighborhood. Reduction in the setbacks has moved the homes closer to the neighboring yards and the homes are larger than originally expected. Better notices should be sent to contiguous property owners. He has asked the City to meet with the builder and residents to resolve the problem as soon as possible. He also asked if he might have a copy of the City Manager's report. Mayor Freeland asked that Mr. Blick forward any information the City has to the neighborhood. The City Manager said there is a question of landscaping at this time that is going to be resolved between the builder and the residents.

7. Arlene Simons, the Executive Director of the Community Housing Resources Board. Ms. Simons said she is quite pleased that the Rockville Housing Authority has supported a housing retention proposal proffered by the CHRB. A copy has also been provided to the tenants association. The next step is endorsement by the Mayor and Council, their commitment and a 20% match of funds. Mayor Freeland asked that Ms. Simons make all the information available to the City Manager.

8. Irwin Cohen, 13 Hardwicke Place. Mr. Cohen said the citizens on Hardwicke Place are concerned about the construction in their neighborhood. The City Manager was suppose to have prepared a report and nothing has been sent to the neighbors. There seems to be a lackadaisical approach on behalf of the staff to his neighborhood problems. Meetings were not held and the notice procedures are sorely lacking. Councilman Abrams agreed that all concerned would like a better notice procedure and steps are being taken to correct that in the future, however, that does not help the past events and he asked what type of relief the neighborhood is seeking for. Mr. Cohen said the neighborhood would like to go back to the point where the City left

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off because they do not like the present plan. Mr. Abrams asked if the neighborhood would like to have the house relocated. Mr. Cohen said no. Mayor Freeland asked the City Manager if the staff could arrange to hold a meeting with Mr. Cohen. The City Manager said due to the threat of litigation the Mayor and Council must discuss this before the meeting is held. Mr. Rosenberg commented there is no litigation of which he is aware.

There being no other citizen wishing to be heard, the Mayor closed the Citizen's Forum portion of the meeting.

Councilman Tyner addressed the Council concerning the Maryland Municipal League Legislative Conference held last weekend. He said it was the largest legislative conference ever. There were 61 municipalities who were represented with 280 delegates. Next year will be the 30th anniversary of Home Rule in Maryland and the League will be working on the celebration. He has appointed Councilman Duncan to the Convention Planning Committee which is a group that schedules the workshops on issues for the League. Councilwoman Hovsepien commented on the Legislative Program and noted the bills the League will be promoting.

- * There will be legislation providing authority for municipalities to create Economic Development Assessment Districts which will be special tax districts in commercial areas.

- * Creation of a \$25 million state bond fund to loan to municipalities for infrustructive improvements, and

- * an increase in the limit on municipal fines from \$500 and 90 days to \$1000 and six months.

Resolutions regarding the State Retirement System, Federal Cable Legislation and the 30th Anniversary of Municipal Home Rule all received unanimous approval.

In addition, three other issues were referred to the LAC for consideration:

- * A requirement that the State observe local building codes for new construction
- * A provision that areas seeking annexation into an existing municipality pay the costs of preparing annexation documents, and
- * A study of assessment policies which result in substantially lower values placed on commercial properties.

Councilman Tyner showed a brochure from the City of Hagerstown, for the City Clerk, who is preparing a brochure for distribution at Council meetings.

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Re: Presentation - Status
Report from Tribune-
United Cable Company

A presentation was given to the Mayor and Council by Tribune United Cable Company's representatives Jane Simons, Bill DuPre, and Fern Kraus. They explained the construction procedures to the Council. They noted they hope to begin construction this December and have hook-ups begin by February and March of next year. The Mayor and Council thanked the representatives for the up date.

Re: Introduction of
Ordinance: To set
public hearing date
and propose special
assessment project -
Brent Road
Improvements

On motion of Councilman Abrams, there was introduced upon the table an ordinance setting the public hearing of December 12 and proposing the special assessment project for the Brent Road Improvements, said ordinance to lay over at least one week before final action is taken.

Re: Approval of waiver
for on-site storm
water management
facility.

a) 1592 Rockville Pike

This request is for a parking lot improvement needed at 1592 Rockville Pike for new uses in an existing building in the Rock Creek drainage area. The additional runoff can be accommodated by the existing storm drainage system which leads to the enlarged SWM facility at the Twinbrook Metro Station.

The owner plans to add a standard asphalt surface course to the existing gravel parking area. The storm drains serving this area are not deep enough to drain an underground pipe detention system. Systems that have to be pumped out are not desirable in that they require a great amount of energy and will not function as intended during loss of power. The applicant is prepared to make a contribution toward the public off-site SWM program. The area involved is 0.083 acres and would result in a contribution of \$996 (0.083 @ \$12,000).

The committee recommends that the City grant the subject waiver and accept a contribution of \$996 toward off-site public SWM facilities, subject to concurrence by the Montgomery Soil Conservation District.

On motion of Councilman Duncan, duly seconded and unanimously passed, the City granted the waiver and accepted the contribution of \$996 toward off-site construction.

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b) 103 North Adams Street

This site at 103 North Adams is located near Middle Lane, in a historic district. The proposed improvements include a 32' x 50' two-story office building together with related parking, street improvements, planting and screening.

The runoff from this site flows to nearby inlets in Middle Lane and then is conveyed by an enclosed system to Maryvale Park where it can be managed.

The development and topography of this site make it very difficult to provide acceptable forms of storm water management on-site.

Considering the above, the committee recommends that the City waive the on-site requirement and accept a contribution toward the City's off-site storm water management program. Such a contribution would be \$1,872 (0.156 acres @ \$12,000) and is subject to concurrence by the Montgomery Soil Conservation District.

On motion of Councilwoman Hovsepian, duly seconded and unanimously passed, the on-site SWM requirement was waived and a contribution accepted of \$1,872 toward off-site.

Re: Adoption of
Ordinance: To grant
application, SL-1-83,
Burgundy Park
Associates, Burgundy
Park Center

Ordinance No. 36-83

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 36-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council, granting application SL-1-83, Burgundy Park, was approved by the Council.

Re: Adoption of
Ordinance: To zone 2
acres of land
Residential -
Cromwell/Betts
Annexation - Falls
Road/Evergreen Lane

Ordinance No. 37-83

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 37-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council, zoning two acres of land, Residential, Cromwell/Betts Annexation, was approved by the Mayor and Council.

Re: Retirement Plan
Amendments:

a) Amendment to improve Plan termination provisions for Contract GA-2377

The amendment to Contract GA-2377 improves the plan termination provisions in

the unlikely event that the City would ever terminate the present contract with the Hartford and transfer its assets to another carrier or trustee. Contract GA-2377 is the contract covering supplementary benefits provided by voluntary employee contributions.

As presently structured, if the City were to transfer Contract GA-2377's assets at book value, payments would be made over 10 years at a low rate of interest. Under the contract covering the primary retirement plan, Contract GA-2376, plan assets may be transferred at book value over 5 years, with an interest rate favorable to the City.

The amendment changes the termination provisions of Contract GA-2377 to those of Contract GA-2376.

This amendment was proposed and reviewed by Edward Friend & Company and drafted by the Hartford Insurance Company. The amendment is a technical housekeeping matter and will not affect employee benefits. The City's Retirement Board approved this amendment at its October 4, 1983, meeting.

On motion of Councilman Abrams, duly seconded and unanimously passed, this amendment was approved by the Mayor and Council.

b) Amendment to remove minimum fund liabilities from Contract GA-2376

The amendment to Contract GA-2376 improves the terms under which the retirement plan's assets could be transferred to another carrier or trustee in the unlikely event that the City's contract with the Hartford were terminated.

The plan presently requires that, if the contract were terminated, annuities be purchased for all then retired persons. It requires that 105% of the amount of such annuities be maintained in the plan's general fund at all times. The problem with this is that the Hartford's rates for annuities are higher than can be obtained elsewhere. In other words, if the plan were transferred, annuities could be provided through the plan itself or from another carrier at a cost considerably below what the Hartford would charge for purchased annuities.

Approval of the amendment would make it less costly to move the plan if desired at some point in the future. The amendment was proposed and reviewed by Edward Friend & Company and drafted by the Hartford Insurance Company. The amendment is a technical, housekeeping matter and will not affect employee benefits. The City's Retirement Board approved this amendment at its October 4, 1983, meeting.

On motion of Councilman Duncan, duly seconded and unanimously passed, the amendment to remove minimum fund liability from the City's Retirement Plan was adopted by the Mayor and Council.

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Re: Preliminary Review
and Referral - Text
Amendment
Application, T-57-83,
Waiving parking
requirements - O-2
zone

The subject Text Amendment has been prepared and filed to address several known and/or anticipated problems related to off-street parking in the O-2, Transitional Office Zone.

The amendment would add a subsection to the Parking, Loading, and Access Requirements, giving the Planning Commission authority to waive certain parking design requirements when dealing with conversion of existing buildings in the O-2 Zone.

The amendment is identical to a Text Amendment (T-44-81) which was prepared and filed by the Planning Commission in 1981 to help accomplish conversion of properties located on the east side of North Adams Street. That Text Amendment was ultimately denied by the Mayor and Council.

Councilman Duncan said this amendment is identical to a previous text amendment that was voted down by the Mayor and Council. Mr. Owens agreed with Councilman Duncan and said at the time that application was filed it was filed by the Planning Commission because it seemed the only practical way of using the properties on the east side of Adams Street and unless there is relief in the parking area, it is difficult to make improvements and conversions. Councilman Abrams said it would seem the attitude of the community has changed now that rehabilitation has taken place on the west side. Councilman Tyner said he has many problems with this change being made.

On motion of Councilman Abrams, duly seconded and passed, only Councilman Tyner voting nay, the Council referred the subject text amendment to the Planning Commission for further review.

Mayor Freeland noted this amendment has strong support from the immediate neighbors, but the further away the people lived, the more opposed they were. He said the West End Citizens Association will be watching this process carefully. Councilman Tyner agreed and said this will be dealt with as a Planning item.

Re: Annual Report of the
Board of Appeals

Karen Lechter, Chairman of the Board of Appeals, introduced Mr. Arkin, Mr. Hartogensis, and Mr Woodward. She noted that over the past 12 months, the Board has had 27 appeal applications, 12 special exception applications and other review items. She thanked the staff, particularly Robert Mitchell and other staff members, Larry

Owens and Sue Richards who have worked and supported the Board for the past year. She thanked the Mayor and Council for the budget item that allowed them to join the American Planning Association and attend their meetings. She said the Board has met in the last year with the Energy Commission and they agreed to contribute their technical expertise on matters that have energy implications. Mr. Arkin suggested that the Mayor and Council clarify language in the Sign Ordinance concerning the Board of Appeals since there seems to be a broad scope of latitude given to the Sign Review Board in the ordinance. The City Attorney said this would be addressed prior to the ordinance being adopted. Mr. Arkin said the Historic District Commission has also commented to the Board of Appeals on cases. Mr. Woodward told the Council that attention must be given to the Sign Review Board in the Sign Ordinance and what scope an appeal will have. There are many questions that need to be answered. The Board desires to work with the Mayor and Council to enforce the laws as defined and in the areas of agreed upon responsibility. The City Attorney invited the Board to submit its comments since that would seem to be an expeditious process to facilitate the efforts for citizens with a minimum of cost. That is the object in the appeal. Councilman Abrams said that the Board will possibly be dealing with commercial owners and although there can be an informal hearing at the Sign Review Board level, at the Board of Appeals level, it may have to be combined with a de nova appeal. He suggested that those items be addressed in the ordinance.

Mr. Hartogensis said it is the first time that four attorneys have sat on the Board of Appeals so that the operation now is somewhat different. He said the number of cases has picked up. In past years, there were two or three and now there are seven to nine cases each month. It has been a pleasure to serve the Mayor and Council in this capacity. The Mayor and Council thanked the members of the Board of Appeals for the time given to the needs of the citizens this past year.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. E. Dick, General Scientific Corp., re widening Gude Drive
2. Blair Ewing, acknowledging City's letter
3. M. Goldberg, MNCPPC, re Program Open Space

Councilwoman Hovsepian asked if she could have an update on the status of meetings with the Church and on the Park program with Reverend Kaseman in Twinbrook.

4. County Executive Gilchrist, re cable committee
5. Hanna D. Saah, re City trip
6. Montgomery Historical Society re Backward Glance

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7. MML request for information
8. J.M. Axelson, re Rockville Tennis Barn

Councilwoman Hovsepien asked if the Council would like to discuss this. The City Attorney suggested it be done in executive session since it might involve litigation.

9. Area 3 Administrative Office, MCPS, re education opportunities

Re: Information Items

1. Copy of letter from Del. Gordon, re Pike/Bouic signal
2. Copy of Maryvale PTA letter to Board of Education
Councilwoman Hovsepien asked that the staff continue to monitor this situation.
3. Answer to citizen complaint
4. Recreation and Park current project list
5. Quarterly Report from Animal Control Division
6. City's Annual Report
7. Memo re Forum with PTA representatives
8. City Attorney's Memorandum on Proposed Charter Amendments

Councilwoman Hovsepien said she would like to have these materials prepared for public hearings. She asked for further clarification on City employees being involved in the election process since the State law seems to allow it and the City would not wish to be in conflict. The City Attorney says the State does not define which elections City employees can be involved in but he sees it as stated in the memo. He said that as a matter of State law, participation in politics and political campaigns by City employees cannot be restricted so a provision prohibiting such action should be deleted from the City's Charter in order to comply with State law. The City Manager said he has problems with this and would like a clarification. A long discussion ensued on the Charter Amendments. It was the Mayor's feeling that a letter should be sent out to all the homeowners associations explaining that a Charter revision is being proposed and there should be a suitable article in the Newsletter. December 12 will be the date set for the public hearings. In the meantime, if the City Attorney should, in investigating State law, find it does not apply to the City's Charter as far as employee participation in the election process is concerned, that amendment may be deleted.

Re: New Business

1. Councilman Abrams said there are crab apple trees in Woodley Gardens that seem to be a problem and he suggested that no more crab apple trees be planted in the public right of way. Staff noted that current policy eliminates crab apple trees.

Re: Approval of Minutes

On motion of Councilwoman Hovsepien, duly seconded and unanimously passed, the Minutes of Meeting No. 31-83, September 12, 1983, were approved as amended.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Minutes of Meeting No. 32-83, September 19, 1983, were approved as written.

Re: Executive Session

On motion of Councilman Abrams, duly seconded and unanimously passed, the Meeting was closed for executive session to discuss potential litigation matters.

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Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 11:45 p.m. to convene again in general session on Monday, November 14, 1983, at 8:00 p.m. or at the call of the Mayor.